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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/920,333	08/02/2001	Benedikt Aschermann	3891-3	5018
23117	7590	10/27/2005	EXAMINER	
NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203			MURPHY, RHONDA L	
			ART UNIT	PAPER NUMBER
			2667	

DATE MAILED: 10/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/920,333	Applicant(s) ASCHERMANN, BENEDICT 	
	Examiner Rhonda Murphy	Art Unit 2667	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 August 2005.
 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☒ Claim(s) 1-41 is/are rejected.
 7) ☐ Claim(s) _____ is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☒ The drawing(s) filed on 01 August 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>8/1/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. This communication is responsive to the amendment filed on August 1, 2005. Accordingly, claims 36 – 41 have been added and claims 1 - 41 are currently pending in this application. In light of further reading, Examiner has withdrawn the objection to claims 5, 14, 34 and 35 as being allowable. New grounds of rejection have been provided and are moot.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 19 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear as to which peripheral unit is being referenced in the limitation “a peripheral unit for use in a communications network which also includes a peripheral unit, the central unit being connected by a first link to the peripheral unit...”

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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2. Claims 1-6, 8-13, 15, 17-30, 32-35 and 37 are rejected under 35 U.S.C. 102(b) as being anticipated by Mahany (US 5,960,344).

Regarding claims 1, 5, 10, 19, 26, 34 and 35, Mahany teaches a communication network (Fig. 3) comprising a central unit (host computer, connected to the LAN in Fig. 3, not shown), a first peripheral unit (access point 35) and a second peripheral unit (access point 36); the central unit being connected by a first link (the link extending from element 37) to the first peripheral unit and by a second link (the link extending from element 41) to the second peripheral unit, the communication network further comprises means for providing a radio link (30) between first peripheral unit and the second peripheral unit (see Fig. 3; col. 7, lines 5-22, 30-33); means for providing communication between the central unit and the second peripheral unit over the radio link upon failure of the second link (col. 7, lines 30-48); wherein one of the central unit, and the first peripheral unit determines whether traffic and/or control information is to be rerouted from the second link to the first link (col. 7, lines 33-37; the access point (peripheral unit) makes the determination via its CPU).

Regarding claims 2, 11, 20 and 27, Mahany further teaches rerouting traffic carried over the second link to the radio link and the first link (col. 7, lines 30-48).

Regarding claims 3, 12, 21 and 28, Mahany further teaches providing control information concerning the second link, to the radio link and the first link (col. 7, lines 42-48).

Regarding claims 4, 13, 22 and 29, Mahany further teaches providing fault localization

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information concerning the failure of the second link to the radio link and the first link (col. 7, lines 45-48).

Regarding claims 6, 15 and 30, Mahany further teaches the central unit, the first peripheral unit and second peripheral unit as nodes of the communication network (Fig. 3).

Regarding claims 8, 17, 24 and 32, Mahany further teaches the central unit, first peripheral unit and second peripheral unit comprising portions of a distributed radio base station node of a radio access telecommunications network (col. 4, lines 36-48).

Regarding claims 9, 18, 25 and 33, Mahany further teaches the central unit comprising data processing and control functions of the distributed radio base station node (Examiner takes official notice that it is well known in the art for a central unit/host computer to perform data processing and control functions).

Regarding claim 23, Mahany further teaches the peripheral unit as a base station of a radio access telecommunications network (col. 4, lines 40-42).

Regarding claim 37, Mahany further teaches the apparatus of claim 10, wherein the first peripheral unit makes the determination whether traffic and/or control information is to be rerouted from the second link to the first link (col. 7, lines 33-37; the access point (peripheral unit) makes the determination via its CPU).

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 7, 16 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mahany (US 5,960,344) in view of Costa et al. (US 6,668,170).

Regarding claims 7, 16 and 31, Mahany teaches the communication network as a radio access telecommunications network (col. 2, lines 11-26), wherein the first peripheral unit is the first base station and the second peripheral unit is the second base station (col. 4, lines 40-42). Mahany does not disclose the host computer as a radio network control node (RNC).

However, Costa teaches an RNC in communication with base stations (nodes B) in a mobile radio network (Fig. 1; col. 2, lines 22-34).

In view of this, it would have been obvious to one skilled in the art to include an RNC node as the host computer in Mahany's system, for the purpose of providing signaling information between the RNC and the base stations.

3. Claims 14, 36 and 38 - 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mahany (US 5,960,344).

Regarding claim 14, Mahany teaches a CPU making a determination of whether traffic and/or control information is to be rerouted from the second link to the first link (col. 7, lines 33-37).

Mahany fails to explicitly disclose the central unit making the determination. However, it would have been obvious for the CPU within a central unit to determine the rerouting of traffic and/or control information, since the determination process is capable of being distributed to the CPU of a central unit, in order to reroute the traffic and/or control information from the peripheral unit.

Regarding claims 36, 38, 39, Mahany teaches determining whether traffic and/or control information is to be rerouted from the second link to the first link.

Mahany fails to explicitly disclose the determination involving checking capacity of the first peripheral unit and the first radio link.

However, it would have been obvious to check the capacity of the first peripheral unit and the first radio link, so as to conclude whether or not the first peripheral unit and first radio link is capable of supporting the traffic and/or control information from the second peripheral unit.

Regarding claim 40, Mahany teaches the same limitations described in the rejection of claim 14.

Mahany fails to explicitly disclose the determination involving checking capacity of the first peripheral unit and the first radio link.

However, it would have been obvious to check the capacity of the first peripheral unit and the first radio link, so as to conclude whether or not the first peripheral unit and

first radio link is capable of supporting the traffic and/or control information from the second peripheral unit.

Regarding claim 41, Mahany teaches the first peripheral unit making the determination of whether traffic and/or control information is to be rerouted from the second link to the first link (col. 7, lines 33-37).

Mahany fails to explicitly disclose the determination involving checking capacity of the first peripheral unit and the first radio link.

However, it would have been obvious to check the capacity of the first peripheral unit and the first radio link, so as to conclude whether or not the first peripheral unit and first radio link is capable of supporting the traffic and/or control information from the second peripheral unit.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rhonda Murphy whose telephone number is (571) 272-3185. The examiner can normally be reached on Monday - Friday 8:00 - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham can be reached on (571) 272-3179. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

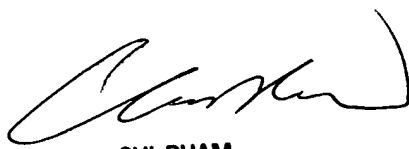
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Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Rhonda Murphy
Examiner
Art Unit 2667

rlm


CHI PHAM
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2667 12/28/05